

**NUTRITION SERVICES DIVISION
MANAGEMENT BULLETIN**

**No. 01-207
Corrected**

TO:	Child and Adult Care Food Program Day Care Home Sponsors	ISSUE DATE: May 2001
ATTENTION:	Agency Directors	
SUBJECT:	Allowable CACFP Employee Compensation Costs – Correction	
REFERENCE:	Office of Management and Budget (OMB) Circular Numbers A-122 and A-87, Management Bulletin 01-207 dated March 2001.	

This Management Bulletin corrects information transmitted in Management Bulletin 01-207 dated March 2001. Bolded words in text indicate the corrections. The following guidelines clarify the appropriate and allowable Child and Adult Care Food Program (CACFP) employee compensation costs, including fringe benefits. Compensation costs are often referred to as labor or personal service costs, which include all forms of compensation earned and all forms of payment made either in cash or non-cash, such as fringe benefits. Fringe benefits commonly include paid vacation and sick leave, paid leave for military service and jury duty, health and retirement benefits, life and disability insurance policies, tax-sheltered annuities, and pension plans.

Total compensation (cash and fringe benefits) paid to employees must be reasonable and conform to the sponsor's written **compensation policy** and either the Office of Management and Budget (OMB) Circular Number A-122 or A-87, **as applicable**. In addition, all costs charged to the CACFP must be allowable and approved by California Department of Education (CDE) through annual CACFP participation renewal, or the budget change request process.

The employer's costs of fringe benefits are allowable when all like employees (Federally funded and non-Federally funded positions) receive the same benefits in accordance with the sponsor's established written compensation policy. The costs of dependent or family benefit plans are allowable to the extent the particular employee's benefit plan costs are allowable. Fringe benefit costs that frequently elicit questions include insurance and retirement benefits.

Unallowable fringe benefits include:

- The employee's share of fringe benefits cost.
- Fringe benefits not paid **or funded**.
- Fringe benefits provided to individuals hired using personal service contracts.
- Fringe benefits not provided in accordance with the sponsor's written compensation policy.
- Premiums on life or disability **insurance policies** when the sponsor is the beneficiary.

Insurance Benefits

The cost of premiums for life and disability insurance policies for non-management employees is allowable when the employer is not the beneficiary. Sponsors providing life insurance to employees as a fringe benefit must assess the reasonableness of the policy. For example, term life insurance (with someone other than the sponsor as beneficiary) is often the most cost effective method for providing insurance benefits to employees. However, if a sponsor elects a more expensive insurance policy, such as whole life or universal, CDE will only approve an amount equal to the lowest cost alternative available. In general, the costs for whole life or universal policies are not reasonable because:

- These policies are generally much more expensive than term life insurance for comparative coverage.
- These policies are considered “permanent insurance” and may not be appropriate considering the transient nature of today’s workforce.
- Whole or universal life policies can act as deferred savings accounts, which in effect supplement employee total compensation.

Retirement Benefits

The employer’s contribution to tax-sheltered annuities are allowable **as employee compensation** when reasonable and applied to both Federally funded and non-Federally funded employees alike.

Pension plan costs can be allowable, but very specific State and Federal rules apply. OMB Circular Numbers A-122 **and** A-87 provide guidance related to the allowable costs of eligible pension plans, but do not provide guidance on State or Federal requirements regarding the establishment and maintenance of pension plans. Therefore, we strongly recommend you consult an accountant, or an attorney specializing in pension plans, or a pension fund expert when establishing or reviewing your pension plans. These plans must meet all applicable State and Federal requirements before CDE can approve funding. This may include compliance certifications from appropriate regulatory, tax, and audit agencies.

These guidelines are based on the most recent revisions to OMB Circular Number A-122, “Cost Principles for Non-Profit Organizations,” effective June 1, 1998, and A-87, “Cost Principles for State, Local, and Indian Tribal Governments,” last amended in August 1997. In general, both circulars recognize that employee compensation costs for benefits provided to Federally funded employees are reasonable when the same benefits are provided to non-Federally funded employees. Since not all sponsors have sufficient non-Federally funded positions upon which CDE can make the required assessment, CDE will use comparative information gained from other public and non-profit organizations to assess the allowability of costs in these situations.

Attached for your reference are selected portions of the circulars that cover employee compensation costs. These circulars can be found in their entirety at www.whitehouse.gov/omb/circulars/index.html, or at <http://www.whitehouse.gov/OMB/Grants>.

If you have questions, please contact your Nutrition Service Division Representative directly or the Nutrition Services Division (NSD) at (800) 952-5609 or (916) 445-0850.

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EXCERPTS ON EMPLOYEE COMPENSATION FROM OMB CIRCULARS A-122 AND A-87

A. General OMB Circular Compensation Statements

- 1) **OMB Circular A-122**, Attachment B, Section 7, "Compensation for Personal Services", states:

Definition

Compensation for personal services includes all compensation, paid currently or accrued by the organization, for services of employees rendered during the period of the award. It includes, but is not limited to, salaries, wages, directors' and executive committee members' fees, incentive awards, fringe benefits, pension plan costs, allowances for off-site pay, incentive pay, location allowances, hardship pay, and cost-of-living differentials.

Allowability

Except as otherwise specifically provided in this paragraph, the costs of such compensation are allowable to the extent that total compensation to individual employees is reasonable for the services rendered and conforms to the established policy of the organization consistently applied to both Federal and non-Federal activities.

Reasonableness

- (a) When the organization is predominantly engaged in activities other than those sponsored by the Federal government, compensation for employees on federally-sponsored work will be considered reasonable to the extent that it is consistent with that paid for similar work in the organization's other activities.
- (b) When the organization is predominantly engaged in federally-sponsored activities and in cases where the kind of employees required for the Federal activities are not found in the organization's other activities, compensation for employees on federally-sponsored work will be considered reasonable to the extent that it is comparable to that paid for similar work in the labor markets in which the organization competes for the kind of employees involved.

Special Considerations in Determining Allowability

Certain conditions require special consideration and possible limitations in determining costs under Federal awards where the amounts or types of compensation appear unreasonable. Among such conditions are the following:

- (a) Compensation to members of non-profit organizations, trustees, directors, associates, officers, or the immediate families thereof. Determination should be made that such compensation is reasonable for the actual personal services rendered rather than a distribution of earnings in excess of costs;

- (b) Any change in an organization's compensation policy resulting in a substantial increase in the organization's level of compensation, particularly when it was concurrent with an increase in the ratio of Federal awards to other activities of the organization, or any change in the treatment of allowability of specific types of compensation due to changes in Federal policy.

- 2) **OMB Circular A-87**, Attachment B, Section 11, "Compensation for Personnel Services", states:

General

Compensation for personnel services includes all remuneration, paid currently or accrued, for services rendered during the period of performances under Federal awards, including but not necessarily limited to wages, salaries, and fringe benefits. The costs of such compensation are allowable to the extent that they satisfy the specific requirements of OMB Circular A-87, and that the total compensation for individual employees:

- (a) Is reasonable for the services rendered and;
- (b) Conforms to the established policy of the governmental unit consistently applied to both Federal and non-Federal activities; and
- (c) Follows an appointment made in accordance with a governmental unit's laws and rules, and meets merit system or other requirements required by Federal law, where applicable.

B. OMB Circular Fringe Benefits Statement

- 1) **OMB Circular A-122**, Attachment B, Section 7, Subsection f, states:

Fringe Benefits

Fringe benefits in the form of employer contributions or expenses for social security, employee insurance, workers' compensation insurance, pension plan costs, and the like, are allowable, provided such benefits are granted in accordance with established written organization policies. Such benefits whether treated as indirect costs or direct costs, shall be distributed to particular awards and other activities in a manner consistent with the pattern of benefits accruing to the individuals or group of employees whose salaries and wages are chargeable to such awards and other activities.

Costs of insurance on the lives of trustees, officers, or other employees holding positions of similar responsibility are allowable only to the extent that the insurance represents additional compensation. The costs of such insurance when the organization is named as beneficiary are unallowable.

- 2) **OMB Circular A-87**, Attachment B, Section 11, Subsection d, states:

Fringe Benefits

The cost of fringe benefits in the form of regular compensation paid to employees during periods of authorized absences from the job, such as for annual leave, sick leave, holidays, court leave, military leave, and other similar benefits, are allowable if:

- (a) They are provided under established written leave policies;
- (b) The costs are equitably allocated to all related activities, including Federal awards; and
- (c) The accounting basis (cash or accrual) selected for costing each type of leave is consistently followed by the governmental unit.

C. **OMB Circular Pension Plan Statements**

- 1) **OMB Circular A-122**, Attachment B, Section 7, Subsection h, states:

Pension Plan Costs

Costs of the organization's pension plan which are incurred in accordance with the established policies of the organization are allowable, provided:

- (a) Such policies meet the test of reasonableness;
- (b) The methods of cost allocation are not discriminatory;
- (c) The cost assigned to each fiscal year is determined in accordance with the generally accepted accounting principles as prescribed in Accounting Principles Board Option No. 8, issued by the American Institute of Certified Public Accountants; and
- (d) The costs assigned to a given fiscal year are funded for all plan participants within six months after the end of that year. However, increases to normal and past service pension costs caused by a delay in funding the actuarial liability beyond 30 days after each quarter of the year to which such costs are assignable are unallowable.

- 2) **OMB Circular A-87**, Attachment B, Section 11, Subsection e, states:

Pension Plan Costs

Pension plan costs may be computed using a pay-as-you-go method or an acceptable actuarial cost method in accordance with established written policies of the governmental unit.